

Interim Decision #2033

MATTER OF KORYZMA *

In Deportation Proceedings

A-14238613

Decided by Board February 20, 1970

The provisions of section 241(f) of the Immigration and Nationality Act, as amended, and the Supreme Court decision in *Immigration and Naturalization Service v. Errico-Scott*, 385 U.S. 214 (1966), are not applicable to save from deportation an alien deportable under section 241(a)(2) of the Act on an "exchange visitor-remained longer" charge, since fraud is not an essential ingredient of the ground on which deportation is ordered. [*Muslemi v. Immigration and Naturalization Service*, 408 F.2d 1196 (C.A. 9, 1969), distinguished.]

CHARGE:

Order: Act of 1952—Section 241(a)(2) [8 U.S.C. 1251(a)(2)]—Exchange visitor—remained longer.

ON BEHALF OF RESPONDENT:

A. W. Hargreaves, Esquire
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30 Hotaling Place
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(Brief filed)

ON BEHALF OF SERVICE:

Stephen M. Suffin
Trial Attorney
(Brief filed)

The case comes forward on motion of counsel requesting that proceedings be terminated or reopened.

The record relates to a native of Austria, born of parents who were citizens of Poland, 24 years old, male, married, who resided in Chile since he was approximately four or five years of age. In 1964 the respondent came to the United States on a student visa. In June 1966 he returned to Chile in order to visit his parents. The college had changed its policy and had supplied or sent to the respondent an exchange visitor form under section 101(a)(15)(J) of the Immigration and Nationality Act. He last entered the United States on September 11, 1966 as an exchange visitor.

* The alien in this case is also the subject of Interim Decision No. 1998.